IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.464 OF 2005
ALONG WITH
CRIMINAL WRIT PETITION NO.466 OF 2005

M/s. Shree Mahalaxmi Industries
and anr. ...Petitioners.

V/s

M/s. Foseco India Ltd.
and anr. ...Respondents.

Mr. Uday Warunjikar for the petitioners.
Mr. A.M. Shringarpure, APP for the State.

CORAM: V.M.KANADE,J.
DATE: 13th April, 2005

P.C.:

1. Heard the learned counsel for the petitioners.

2. Petitioners are challenging the order of issuance of process by the Judicial Magistrate, First Class, Pune on a complaint filed by respondent No.1 under section 138 of the Negotiable Instruments Act.

3. It is submitted by the learned Counsel appearing on behalf of the petitioners that the statutory notice issued by the complainant is a composite demand made in respect of several cheques which were dishonoured and, therefore, on that count itself, the complaint was not maintainable. It is further submitted that the statutory notice was issued beyond the period of limitation and, therefore, the complaint was not

maintainable. It is submitted that the complainant had issued two notices and the respondent No.1 filed complaint on the second legal notice and, therefore, on that count also the complaint was not maintainable. It is further submitted that the complaint was not filed within one month from the receipt of the statutory notice by the petitioners and, therefore, the complaint was not maintainable on this ground also.

4. It is not possible to accept the submissions made by the learned Counsel appearing on behalf of the petitioners. I have perused the statutory notice in which specific cheque numbers, date and the amount of each cheque have been mentioned and a specific amount has been demanded by the complainant. Therefore, the submissions of the learned counsel appearing on behalf of the petitioners that the composite demand is made, cannot be accepted. I have also perused the complaint and there are several averments made in the complaint regarding the invoice number, date and the amount which was due and also the amount which was paid, cheque numbers, date on which the cheques were issued and the amount of cheques. Further particulars have been mentioned as to when the cheques were dishonoured, the date on which the notice was issued

and date on which the complaint was filed. The Trial Court has correctly observed that the complaint in respect of cheque bearing No.397041 dated 28/02/2001 is not maintainable. However, the complaint in respect of other cheques was within limitation. The complainant has made specific averments to that effect in his complaint. Thus, it is not possible to accept the submissions made by the learned Counsel appearing on behalf of the petitioners.

5. Both the above Writ Petitions are, therefore, dismissed.

V.M. KANADE, J.